

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

LYNNE MICHELE GARLAND  
a.k.a. L. MICHELE GARLAND  
a.k.a. LYNN GARLAND  
a.k.a. MICHELE GARLAND WEGENER  
3840 Nutmeg Way  
Oceanside, CA 92057

Registered Nurse License No. 146088

Respondent

Case No. 2012-558

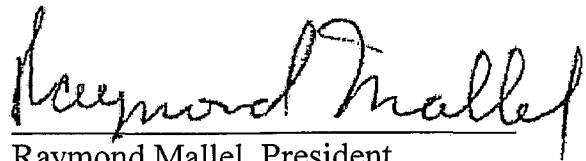
OAH No. 2012040675

**DECISION AND ORDER**

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **February 15, 2013.**

IT IS SO ORDERED **February 15, 2013.**



Raymond Mallel, President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 KAMALA D. HARRIS  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 NICOLE R. TRAMA  
Deputy Attorney General  
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*Attorneys for Complainant*

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**BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

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12 In the Matter of the Accusation Against:

13 **LYNNE MICHELE GARLAND;**  
14 **AKA L. MICHELE GARLAND;**  
**AKA LYNN GARLAND;**  
15 **AKA MICHELE GARLAND WEGENER**  
3840 Nutmeg Way  
16 Oceanside, CA 92057

17 **Registered Nurse License No. 146088**

18 Respondent.

Case No. 2012-558

OAH No. 2012040675

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

19  
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
21 proceeding that the following matters are true:

22 PARTIES

23 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of  
24 Registered Nursing. She brought this action solely in her official capacity and is represented in  
25 this matter by Kamala D. Harris, Attorney General of the State of California, by Nicole R. Trama,  
26 Deputy Attorney General.  
27  
28

2. Lynne Michele Garland; aka L. Michele Garland; aka Lynn Garland; aka Michele Garland Wegener (Respondent) is represented in this proceeding by attorney David M. Balfour, whose address is DiCaro, Coppo & Popcke, APLC, 2780 Gateway Road, Carlsbad, CA 92009.

3. On or about September 6, 1963, the Board of Registered Nursing issued Registered Nurse License No. 146088 to Lynne Michele Garland; aka L. Michele Garland; aka Lynn Garland; aka Michele Garland Wegener (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2012-558 and will expire on March 31, 2013, unless renewed.

## JURISDICTION

4. Accusation No. 2012-558 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 20, 2012. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2012-558 is attached as Exhibit A and incorporated by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2012-558. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 2012-558, if proven at a hearing, constitute cause for imposing discipline upon her Registered Nurse License.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline. Respondent hereby gives up her right to contest that cause for discipline exists based on those charges.

10. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Registered Nurse License without further process.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions,

1 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order  
2 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing  
3 executed by an authorized representative of each of the parties.

4 14. In consideration of the foregoing admissions and stipulations, the parties agree that  
5 the Board may, without further notice or formal proceeding, issue and enter the following Order:

6 **ORDER**

7 IT IS HEREBY ORDERED that Registered Nurse License No. 146088, issued to  
8 Respondent Lynne Michele Garland; aka L. Michele Garland; aka Lynn Garland; aka Michele  
9 Garland Wegener, is surrendered and accepted by the Board of Registered Nursing.

10 1. The surrender of Respondent's Registered Nurse License and the acceptance of the  
11 surrendered license by the Board shall constitute the imposition of discipline against Respondent.  
12 This stipulation constitutes a record of the discipline and shall become a part of Respondent's  
13 license history with the Board of Registered Nursing.

14 2. Respondent shall lose all rights and privileges as a registered nurse in California as of  
15 the effective date of the Board's Decision and Order.

16 3. Respondent shall cause to be delivered to the Board her pocket license and, if one was  
17 issued, her wall certificate on or before the effective date of the Decision and Order.

18 4. If Respondent ever files an application for licensure or a petition for reinstatement in  
19 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must  
20 comply with all the laws, regulations and procedures for reinstatement of a revoked license in  
21 effect at the time the petition is filed, and all of the charges and allegations contained in  
22 Accusation No. 2012-558 shall be deemed to be true, correct and admitted by Respondent when  
23 the Board determines whether to grant or deny the petition.

24 5. If and when Respondent's license is reinstated, she shall pay to the Board costs  
25 associated with its investigation and enforcement pursuant to Business and Professions Code  
26 section 125.3 in the amount of \$2,105.00. Respondent shall be permitted to pay these costs in a  
27 payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the  
28 Board from reducing the amount of cost recovery upon reinstatement of the license.


6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 2012-558 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

7. Respondent shall not apply for licensure or petition for reinstatement for two (2) years from the effective date of the Board of Registered Nursing's Decision and Order.

ACCEPTANCE

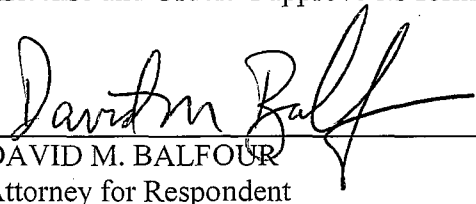
I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, David M. Balfour. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 11-12-12

  
LYNNE MICHELE GARLAND;  
AKA L. MICHELE GARLAND;  
AKA LYNN GARLAND;  
AKA MICHELE GARLAND WEGENER  
Respondent

I have read and fully discussed with Respondent Lynne Michele Garland; aka L. Michele Garland; aka Lynn Garland; aka Michele Garland Wegener the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 11/12/2012

  
DAVID M. BALFOUR  
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: 11/15/12

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
JAMES M. LEDAKIS  
Supervising Deputy Attorney General



NICOLE R. TRAMA  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 2012-558**



1 KAMALA D. HARRIS  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
4 State Bar No. 101336  
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P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-3037  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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15 **AKA MICHELE GARLAND WEGENER**  
**3840 Nutmeg Way**  
**Oceanside, CA 92057**  
16 **Registered Nurse License No. 146088**

17 Respondent.

Case No. **2012-558**

**A C C U S A T I O N**

18  
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing,  
23 Department of Consumer Affairs.

24 2. On or about September 6, 1963, the Board of Registered Nursing issued  
25 Registered Nurse License Number 146088 to Lynne Michele Garland, aka L. Michele Garland,  
26 aka Lynn Garland, aka Michele Garland Wegener (Respondent). The Registered Nurse License  
27 was in full force and effect at all times relevant to the charges brought herein and will expire on  
28 March 31, 2013, unless renewed.

## JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time.

## STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480;  
or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be

1 conclusive evidence of the fact that the conviction occurred, but only of that fact,  
2 and the board may inquire into the circumstances surrounding the commission of  
3 the crime in order to fix the degree of discipline or to determine if the conviction  
is substantially related to the qualifications, functions, and duties of the licensee in  
question.

4 As used in this section, "license" includes "certificate," "permit,"  
5 "authority," and "registration."

6 9. Section 2761 of the Code states:

7 The board may take disciplinary action against a certified or licensed  
8 nurse or deny an application for a certificate or license for any of the following:

9 (a) Unprofessional conduct, which includes, but is not limited to, the  
following:

10 . . . .

11 (f) Conviction of a felony or of any offense substantially related to the  
12 qualifications, functions, and duties of a registered nurse, in which event the  
record of the conviction shall be conclusive evidence thereof.

13 . . . .

14 10. Section 2762 of the Code states:

15 In addition to other acts constituting unprofessional conduct within the  
16 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct  
for a person licensed under this chapter to do any of the following:

17 (a) Obtain or possess in violation of law, or prescribe, or except as  
18 directed by a licensed physician and surgeon, dentist, or podiatrist administer to  
himself or herself, or furnish or administer to another, any controlled substance as  
19 defined in Division 10 (commencing with Section 11000) of the Health and Safety  
Code or any dangerous drug or dangerous device as defined in Section 4022.

20 (b) Use any controlled substance as defined in Division 10 (commencing  
21 with Section 11000) of the Health and Safety Code, or any dangerous drug or  
dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or  
22 in a manner dangerous or injurious to himself or herself, any other person, or the  
public or to the extent that such use impairs his or her ability to conduct with safety  
23 to the public the practice authorized by his or her license.

24 (c) Be convicted of a criminal offense involving the prescription,  
consumption, or self-administration of any of the substances described in  
25 subdivisions (a) and (b) of this section, or the possession of, or falsification of a  
record pertaining to, the substances described in subdivision (a) of this section, in  
26 which event the record of the conviction is conclusive evidence thereof.

27 . . . .

28 ///

11. Section 2765 of the Code states:

A plea or verdict of guilty or a conviction following a plea of *nolo contendere* made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

### REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

- (a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.
- (b) Failure to comply with any mandatory reporting requirements.
- (c) Theft, dishonesty, fraud, or deceit.
- (d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

13. California Code of Regulations, title 16, section 1445 states:

....

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

1 (5) If applicable, evidence of expungement proceedings pursuant  
to Section 1203.4 of the Penal Code.

2 (6) Evidence, if any, of rehabilitation submitted by the licensee.

3 **COST RECOVERY**

4 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request  
5 the administrative law judge to direct a licensee found to have committed a violation or  
6 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
7 and enforcement of the case.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(May 5, 2011 Criminal Conviction for DUI on January 15, 2011)**

10 15. Respondent has subjected her registered nurse license to disciplinary action under  
11 Code sections 490 and 2761, subdivision (f), in that she was convicted of crimes that are  
12 substantially related to the qualifications, functions, and duties of a registered nurse. The  
13 circumstances are as follows:

14 a. On or about May 5, 2011, in a criminal proceeding entitled *The People of*  
15 *the State of California v. Lynne Michelle Garland, aka Lynne Michele Garland*, in San Diego  
16 County Superior Court North County Division, case number CN287912, Respondent was  
17 convicted on her plea of guilty of violating Vehicle Code (VC) section 23152, subdivision (b),  
18 driving with a blood alcohol concentration (BAC) of 0.08% or more, a misdemeanor.  
19 Respondent admitted and the court found true the allegation that Respondent's BAC was .15% or  
20 more, a sentencing enhancement pursuant to VC section 23578. An additional charge for  
21 violation of VC section 23152, subdivision (a), driving under the influence of alcohol, was  
22 dismissed as a result of a plea bargain.

23 b. As a result of the conviction, on or about May 5, 2011, Respondent was  
24 sentenced to five years summary probation. Respondent was further ordered to serve five days in  
25 a public service program with credit for two days actually served, enroll in and successfully  
26 complete a three month driving under the influence first offender program and complete a  
27 Mothers Against Drunk Driving Victim Impact Panel presentation, pay \$2,100.00 in fees, fines,  
28 and restitution, and comply with the terms of standard DUI probation.

1 c. The facts that led to the conviction are that on or about January 15, 2011,  
2 Respondent ran a red light in the City of Vista, California, almost causing another vehicle  
3 traveling on the intersecting street to collide into Respondent's vehicle's broadside. The other  
4 vehicle's driver reported Respondent as a possible drunk driver by calling 911. Respondent fell  
5 asleep at the wheel and was unconscious when the Vista Police Officers arrived. As an Officer  
6 tapped Respondent's shoulder to get her attention, he smelled alcohol from Respondent's person.  
7 When Respondent regained consciousness, she admitted that she had too much to drink. Due to  
8 Respondent's level of drunkenness she could not finish the field sobriety tests. Respondent's two  
9 preliminary alcohol screening breath tests indicated a blood alcohol content (BAC) of .178% and  
10 .197%.

#### 11 **SECOND CAUSE FOR DISCIPLINE**

##### 12 **(Unprofessional Conduct - Use of Alcohol in a Dangerous Manner)**

13 16. Respondent has subjected her registered nurse license to disciplinary action under  
14 section 2762, subdivision (b) of the Code, in that on or about January 15, 2011, as described in  
15 paragraph 15, above, Respondent used alcoholic beverages to an extent or in a manner that was  
16 potentially dangerous and injurious to herself, and to others when she operated a motor vehicle  
17 while impaired with a significantly high blood alcohol concentration.

#### 18 **THIRD CAUSE FOR DISCIPLINE**

##### 19 **(Unprofessional Conduct - Conviction of Alcohol Related Criminal Offenses)**

20 17. Respondent has subjected her registered nurse license to disciplinary action under  
21 section 2762, subdivision (c) of the Code in that on or about May 5, 2011, as described in  
22 paragraph 15, above, Respondent was convicted of criminal offenses involving the consumption  
23 of alcohol.

#### 24 **DISCIPLINE CONSIDERATIONS**

25 18. To determine the degree of discipline, if any, to be imposed on Respondent,  
26 Complainant alleges that on or about April 26, 1976, in a prior disciplinary action entitled *In the*  
27 *Matter of the Accusation Against Lynne Michele Garland, R.N.*, before the Board of Registered  
28 Nursing, in Case Number 75-58, Respondent's license was revoked for self-administration of

1 drugs without authority and making false entries in hospital records regarding those drugs. The  
2 revocation was stayed with probation imposed for a period of five years. That decision is now  
3 final.

4 **PRAYER**

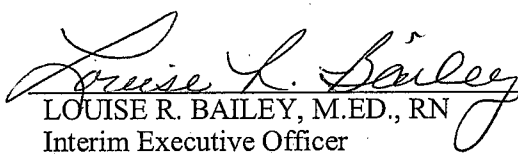
5 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
6 and that following the hearing, the Board of Registered Nursing issue a decision:

7 1. Revoking or suspending Registered Nurse License Number 146088, issued to Lynne  
8 Michele Garland, aka L. Michele Garland, aka Lynn Garland, aka Michele Garland Wegener;

9 2. Ordering Lynne Michele Garland to pay the Board of Registered Nursing the  
10 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
11 Professions Code section 125.3;

12 3. Taking such other and further action as deemed necessary and proper.  
13  
14  
15

16 DATED: March 20, 2012

  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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